

REMARKS

Claims 49-50 have been cancelled without prejudice herein.

Applicant first wishes to thank the Examiner for the telephone interview conducted with Applicant's representative, Celia Leber, on November 15, 2007. During the interview, the pending rejection was discussed. Ms. Leber requested that the Examiner explain where a teaching of a preformed ceramic structure is found in the Niederauer reference. The Examiner declined to do so, and no agreement was reached.

Claims 1, 8-11, 37 and 49-53 have been rejected under 35 U.S.C. §102 as being anticipated by Niederauer (WO 01/32072). This rejection is respectfully traversed.

Applicant's independent claims 1 and 37 require, *inter alia*, a first component comprising a preformed ceramic scaffold structure.

It appears that the Examiner may be overlooking this feature, as there is no allegation in the Office Action that Niederauer discloses a preformed ceramic scaffold structure. Instead, the Examiner alleges only that Niederauer "discloses an implant with a porous, polymeric scaffold further comprising a biodegradable ceramic arranged in such a fashion that when implanted the device is substantially non-porous but becomes porous once the biodegradable ceramic is resorbed" and "that the polymer and ceramic may degrade at separate rates ranging from 8 weeks to several years." (Office Action, paragraphs 4 and 5.)

It is noted that there is no mention of a porous ceramic scaffold in any of the passages cited by the Examiner, i.e., page 6, paragraph 5, page 4, paragraph 4, and page 11, paragraph 1. Page 6, paragraph 5 refers to an implant formed by mixing ceramic particles into a polymer. Page 4, paragraph 4 merely discusses biodegradable polymers. Page 11, paragraph 1 discusses bimodal degradation of the ceramic particles and polymer matrix discussed at page 6, paragraph 5.

Nor can Applicant find any reference whatsoever to the use or formation of a porous ceramic scaffold anywhere in Niederauer.

Instead, the passage from page 8, second full paragraph to page 9, third full paragraph, discusses in detail the use of particulate ceramic materials, including preferred particle sizes and

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shapes of the ceramic particles. There is no suggestion that anything other than particulate ceramic could be used, much less a preformed ceramic scaffold.

Accordingly, Applicant submits that all claims are in condition for allowance, which is respectfully requested.

It is believed that no fees are due with this submission. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 00167-482001.

Respectfully submitted,

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